

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
DUANE SELBY,

Plaintiff,

-v-

WESTCHESTER CO. DEPT. OF CORR., COUNTY OF :  
WESTCHESTER, JUNE LAZO, MED. DEPT., DR. :  
DIANE "DOE," :

Defendants.  
-----X

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 5/9/12

11 Civ. 0711 (JMF)

ORDER ADOPTING  
REPORT AND  
RECOMMENDATION

JESSE M. FURMAN, District Judge:

This case was referred to Magistrate Judge Ronald L. Ellis for General Pretrial purposes. In a Report and Recommendation filed on September 2, 2011, Magistrate Judge Ellis recommended that the case be dismissed without prejudice for failure to prosecute.

The Report and Recommendation advised the parties that they had 14 days from service of the Report and Recommendation to file any objections and warned that failure to timely file such objections would result in waiver of any right to object. As of the date of this Order, no objections have been filed and no request for an extension of time to object has been made. The Report and Recommendation expressly called the Plaintiff's attention to Rule 72 of the Federal Rules of Civil Procedure and Title 28, United States Code, Section 636(b)(1). The Plaintiff received clear notice of the consequences of the failure to object and has waived the right to object to the Report and Recommendation or to obtain appellate review. *See Frank v. Johnson*, 968 F.2d 298, 300 (2d Cir. 1992); *see also Caidor v. Onondaga County*, 517 F.3d 601 (2d Cir. 2008).

Despite the waiver, the Court has reviewed the Report and Recommendation, unguided


by objections, and finds it to be well reasoned and grounded in fact and law. As described in the Report and Recommendation, the Plaintiff failed to appear for multiple conferences before Magistrate Judge Ellis and failed to comply with multiple orders to explain his absences. Moreover, he did so despite being expressly warned that failure to respond might result in dismissal of his case. Further, Magistrate Judge Ellis's Orders and the Report and Recommendation reflect that they were sent to the Plaintiff at two different addresses, including one — 47 Riverdale Avenue, Apartment A9-11, Yonkers, NY 10701 — that corresponds with the address that the Plaintiff provided the Westchester County Jail upon his release. In light of these facts and circumstances, there is no reason why, in the interests of justice, the Plaintiff's waiver of the right to object should not be enforced. Accordingly, the Report and Recommendation is adopted in its entirety.

This Court certifies pursuant to Title 28, United States Code, Section 1915(a)(3) that any appeal from this Order would not be taken in good faith, and *in forma pauperis* status is thus denied. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of the Court is directed to close this case. Any pending motions are moot.

SO ORDERED.

Dated: May 9, 2012  
New York, New York



JESSE M. FURMAN  
United States District Judge